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BEFORE THE
Federal Communications Commission

WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Dearing, Kansas))

MM Docket No. 92-121
RM-8660

To: The Chief, Allocations Branch

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**COMMENTS ON
NOTICE OF PROPOSED RULE MAKING**

KGGF-KUSN, Inc., the licensee of Station KGGF(AM) and KUSN(FM), Coffeyville, Kansas (hereinafter "KGGF") hereby submits Comments opposing the Notice of Proposed Rule Making ("NPRM") in the above-referenced proceeding, DA 95-1603, released July 25, 1995. These Comments are timely filed pursuant to the deadline for comments set forth in the NPRM.

1. In response to a petition for rule making filed by William Bruce Wachter ("Wachter"), the NPRM proposes to amend the FM Table of Allotments to allot FM Channel 251A to Dearing, Kansas. For the reasons demonstrated herein, Wachter has failed to meet his burden of establishing that Dearing should be considered a community for allotment purposes. Dearing contains none of the social, economic or cultural

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components traditionally associated with community status and has an insufficient population base to support an FM station. Moreover, allotment of an FM station to Dearing will only serve to exacerbate the economic plight of small market radio broadcasters such as KGGH who are constantly facing increased competition for fewer advertising dollars.

2. At the outset, the proposed allotment should not be made because Wachter has failed to demonstrate that Dearing, Kansas, which has a population of only 428 persons should be considered a community sufficient to warrant a radio station. In fact, Wachter's petition suffers a fatal inconsistency. On the one hand, Wachter maintains that Dearing, Kansas is an incorporated community but, on the other hand, he claims that Dearing is a census designated place ("CDP"). According to officials of the Population Bureau of the U. S. Census, these two concepts are mutually exclusive. A location cannot be both an incorporated community and a census designated place.

3. Wachter further maintains that "Dearing is not a suburb of any other community," that "it is entirely independent," and that it "has its own community needs and interests." None of these statements is correct. Dearing is located less than five miles from Coffeyville and is a bedroom suburb of that larger community. Its residents commute to Coffeyville to work. Dearing has no schools of its own. It is part of the Coffeyville, Kansas school system. It is also part of the Coffeyville water district. There is no industry in Dearing. There are no medical facilities in Dearing nor any civic or cultural organizations. Police, fire and emergency personnel are provided by

Montgomery County, Kansas. Road maintenance is also provided by the County, and electricity and gas is provided by Kansas Gas & Electric. Dearing has no local newspaper and no business or political organizations. The only commercial establishments in Dearing are two restaurants, one antique store and one convenience store. Dearing does not even have a stop light!

4. Under similar circumstances, the Commission has refused to accord community status to locations that had a far more substantial population base than Dearing. See, e.g., FM Channel Assignments, 69 RR2d 606 (M.M. Bur. 1991) (Columbia, California, with a population of 950, not a community for allotment purposes); FM Channel Assignments, 69 RR2d 893 (M.M. Bur. 1991) (Aguila, Arizona, with a population of 600, not a community for allotment purposes); FM Channel Assignments, 68 RR2d 1358 (M.M. Bur. 1991) (Steinhatchee, Florida, with a population of 800, not a community for allotment purposes); FM Channel Assignments, 69 RR2d 113 (M.M. Bur. 1991) (Hannibal, Ohio, with a population of 650, not a community for allotment purposes); FM Channel Assignments, 71 RR2d 139 (M.M. Bur. 1992) (allotment of FM channel to Hannahs Mill, Georgia was deleted even though Hannahs Mill had a 1980 population of 2,626). FM Channel Assignment, 41 RR2d 1549 (1977) (North Naples, Florida not considered a community although it had a population of 3,201). FM Channel Assignment at Coker, Ala., 43 RR2d 190 (B.B. 1978) (FM Channel not assigned to Coker, Alabama although it had approximately 2,000 residents). FM Channel Assignments, 67 RR2d 146 (M.M. Bur. 1989) (East Hemet, California was not a

community for allotment purposes, [even though U.S. Census statistics indicate East Hemet has a population of approximately 16,000]). Given this substantial line of precedent, the Commission cannot possibly allot an FM channel to Dearing, Kansas which lacks the attributes traditionally required for community status.


5. Moreover, allotting an FM channel to Dearing would aggravate a situation which the Commission is attempting to ameliorate. In Revision of Radio Rules and Policies, 7 FCC Rcd 6387 (1992), the Commission stated:

We concluded in the Report and Order that this intense inter- and intra-industry competition has produced an extremely fragmented radio marketplace in which existing and future radio broadcasters will be subject to increasingly severe economic and financial stress.

This problem is best solved by not allotting FM channels to communities such as Dearing, Kansas which cannot support them. Accordingly, for the reasons set forth above, the proposal to allot an FM channel to Dearing, Kansas should be denied.

Respectfully submitted,

KGGF-KUSN, INC.

By: 
Kathryn R. Schmeltzer
Its Attorney

FISHER WAYLAND COOPER LEADER
& ZARAGOZA L.L.P.
2001 Pennsylvania Avenue N.W.
Suite 400
Washington, D.C. 20006
(202) 659-3494

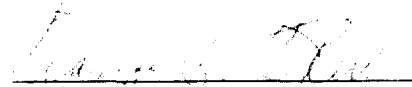
Dated: September 15, 1995
File: 4102002p.001

CERTIFICATE OF SERVICE

I, Margie Sutton Chew, do hereby certify that I have, this 15th day of September, 1995 mailed by United States first-class mail, postage prepaid, a copy of the foregoing **"COMMENTS ON NOTICE OF PROPOSED RULE MAKING"** to the following:

* John A. Karousos, Chief
Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8322
Washington, D.C. 20554

Lauren A. Colby, Esq.
10 E. Fourth Street
P.O. Box 113
Frederick, MD 21705-0113



Margie Sutton Chew

* Hand-Delivery